

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**SERGEANTS BENEVOLENT  
ASSOCIATION HEALTH & WELFARE  
FUND, on behalf of itself and all others  
similarly situated,**

**16cv7229**

**Plaintiff,**

**-against-**

**FOUGERA PHARMACEUTICALS, INC., *et al.*,**

**Defendants.**

**UNITED FOOD AND COMMERCIAL  
WORKERS UNIONS AND EMPLOYERS  
MIDWEST HEALTH BENEFITS FUND, on  
behalf of itself and all others similarly situated,**

**16cv7979**

**Plaintiff,**

**-against-**

**FOUGERA PHARMACEUTICALS, INC., *et al.*,**

**Defendants.**

**SERGEANTS BENEVOLENT  
ASSOCIATION HEALTH & WELFARE  
FUND, on behalf of itself and all others  
similarly situated,**

**16cv7987**

**Plaintiff,**

**-against-**

**FOUGERA PHARMACEUTICALS, INC., *et al.*,**

**Defendants.**

**NECA-IBEW WELFARE TRUST FUND, on  
behalf of itself and all others similarly situated,**

**Plaintiff,**

**-against-**

**AKORN, INC., *et al.*,**

**Defendants.**

**16cv8109**

**PLUMBERS & PIPEFITTERS LOCAL 178  
HEALTH & WELFARE TRUST FUND, on  
behalf of itself and all others similarly situated,**

**Plaintiff,**

**-against-**

**FOUGERA PHARMACEUTICALS, INC., *et al.*,**

**Defendants.**

**16cv8374**

**A.F. OF L. – A.G.C. BUILDING TRADES  
WELFARE PLAN, on behalf of itself and all  
others similarly situated,**

**Plaintiff,**

**-against-**

**AKORN, INC., *et al.*,**

**Defendants.**

**16cv8469**

**INTERNATIONAL UNION OF OPERATING  
ENGINEERS LOCAL 30 BENEFITS FUND,  
on behalf of itself and all others similarly  
situated,**

**Plaintiff,**

**-against-**

**FOUGERA PHARMACEUTICALS, INC., *et al.*,**

**Defendants.**

**16cv8539**

**IUOE LOCAL 30 BENEFIT FUND’S REPLY IN FURTHER SUPPORT OF ITS  
MOTION TO APPOINT INTERIM LEADERSHIP COUNSEL PURSUANT TO FED. R.  
CIV. P. 23(g); FOR CONSOLIDATION OF CLOBETASOL AND DESONIDE ACTIONS**

Plaintiff International Union of Operating Engineers Local 30 Benefit Fund (“IUOE Local 30” or Plaintiff”) respectfully submits this reply in further support of its motion to appoint Hach Rose Schirripa & Cheverie LLP (“HRSC”) to a leadership position or, in the alternative, a supporting counsel position; and to consolidate the seven actions currently before this Court pursuant to Federal Rule of Civil Procedure 42(a).

**I. HRSC SHOULD BE APPOINTED TO A LEADERSHIP OR SUPPORTING  
POSITION FOR THE CONSOLIDATED CASES**

As set forth in IUOE Local 30’s earlier briefing (Master D.E. 71 and 89), its selected counsel, HRSC has demonstrated that it satisfies the Rule 23(g) factors for selection of interim lead counsel. Mindful of this Court’s prior jurisprudence and the obligations of class counsel to economically, effectively and efficiently represent that interests of all Class members, given the complexity of the alleged price-fixing conspiracy which currently encompassed at least three generic drugs, twelve defendants, and occurred over a period of at least three-years, we believe it may prove prudent to appoint interim lead and supporting class counsel.

HRSC has extensive experience in complex and class action litigation in federal and state courts throughout the United States in the areas of antitrust, securities fraud, corporate governance and consumer class actions. In addition to serving as Lead Counsel, HRSC has served as Co-lead, class counsel, or on plaintiffs’ executive committees and steering committees in a number of pharmaceutical antitrust class action working in tandem with, or under the direction of, most of the experienced and qualified law firms seeking appointment of a leadership position in this case. *See e.g., In re Thalomid and Revlimid Antitrust Litigation*, No. 14-cv-6997-KSH (D.N.J.) (HRSC is co-lead counsel with Hausfeld LLP and one other firm); *In re Suboxone*

*Antitrust Litigation*, No. 13-md-2445 (E.D. Pa.) (HRSC is member of Executive Committee where Motley Rice is co-lead counsel); *In re Nexium Antitrust Litigation*, No. 12-md-2409 (D. Mass.) (HRSC represented two certified class representatives where Michael Buchman (Motley Rice) was a co-lead counsel); *In re Solodyn Antitrust Litigation*, No. 14-md-2503 (D. Mass.) (HRSC serving as class counsel for named plaintiff where Motley Rice is a co-lead counsel); *In re Opana ER Antitrust Litigation*, No. 14-md- 2580 (N.D. Ill) (HRSC is serving as class counsel for named plaintiff where Labaton Sucharow is co-lead counsel); *In re Lidoderm Antitrust Litigation*, No. 14-md-2521 (N.D. Cal.) (HRSC is class counsel for proposed class representative where Girard Gibbs is co-lead counsel); and *In re Aggrenox Antitrust Litigation*, No. 14-md-2516 (D. Conn.) (HRSC is serving as class counsel for named plaintiff where Motley Rice is liaison counsel, and Girard Gibbs and Robbins Geller Rudman & Dowd are members of executive committee).

As this Court is aware, here, each of the claims may ultimately require separate named plaintiffs (purchasers for each of the three drugs) to assert claims on behalf of indirect purchasers of that State. As such, antitrust cases like the related actions may require multiple named plaintiffs and proposed class representatives, the interests of all Class members would necessitate the inclusion of counsel beyond a sole or co-lead. *See In re Crude Oil Commodity Futures Litig.*, No. 11-cv-3600 (WHP), 2012 U.S. Dist. LEXIS 23084, at \* (S.D.N.Y. Feb. 14, 2012) (recognizing the need, and specifically permitting co-lead counsel to “divide case responsibilities and costs as they see fit among the fine law firms who have competed to be interim lead counsel”). HRSC’s active involvement in the leadership, or alternatively in a supporting role, would facilitate the effective, efficient and economic prosecution of the indirect purchasers’ class claims.

As a successful boutique class action litigation firm, HRSC has demonstrated its abilities to work cooperatively with many of the firms seeking leadership and is committed to aggressively and efficiently litigating the coordinated/consolidated actions.

**CONCLUSION**

For the foregoing reasons and for the reasons set forth in our prior submissions, IUOE Local 30 respectfully requests that the Court appoint Hach Rose Schirripa & Cheverie LLP to a leadership or supporting position.

Dated: December 9, 2016

**HACH ROSE SCHIRRIPA & CHEVERIE LLP**

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**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that on the 9th day of December 2016, a true and correct copy of the above and foregoing was served by via ECF on all counsel of record in the above-captioned cases.

/s/ Frank R. Schirripa  
Frank R. Schirripa